IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

W.P.Nos.6762, 6763, 6856 AND 6979 OF 2005

WRIT PETITION NO : 6762 of 2005

Between:

M/s. Sri Varasidhi Vinayaka Traders, 144J-17, Nandyal-518 501,
Kurnool District, rep. by its Proprietor, Mr. V. Praveen Kumar.

..... PETITIONER

AND

1 The Commercial Tax Officer-I, Nandyal, Kurnool District.
2 The Regional Vigilance & Enforcement Officer, Kurnool.
3 The Deputy Commercial Tax Officer, Vigilance & Enforcement Wing,

Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Certiorari or any other appropriate writ or order or direction quashing the assessment order dt. 24-2-2005 for the assessment year 2002-03 (APGST) passed by the 1st Respondent on alleged incriminating material said to be sent by the 2nd respondent as illegal, arbitrary and without authority of law and in violation to the principles of natural justice and quash the same and to declare that the petitioner is entitled to the copies of the incriminating material on which the 1st Respondent is relying passing the assessment along with the books of accounts

seized by Respondents on 17-1-2003 and consequently direct the 1st respondent to complete the assessment after giving sufficient opportunity to the petitioner to submit its objections and after granting opportunity of personal hearing.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX,

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WRIT PETITION NO : 6763 of 2005

Between:

M/s Sri Varasidhi Vinayaka Traders, 144J-17, Nandyal - 518 501, Kurnool District, rep. by its Proprietor Mr. V. Praveen Kumar.

..... PETITIONER

AND

1 The Commercial Tax Officer -1, Nandyal, Kurnool District.
2 The Regional Vigilance & Enforcement Officer, Kurnool.
3 The Deputy Commercial Tax Officer, Vigilance & Enforcement Wing,

Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction quashing the assessment order dated 24-2-2005 for the assessment year 2002-03 (CST) passed by the 1st respondent on alleged incriminating material said to be sent by the 2nd respondent as illegal, arbitrary and without authority of law and in violation to the principles of natural justice and quash the same and to declare that the Petitioner is entitled to the copies of the incriminating material on which the 1st Respondent is relying passing the assessment along with the books of accounts seized by Respondents on 17-1-2003 and consequently direct the 1st Respondent to complete the assessment after giving sufficient opportunity to the Petitioner to submit its objections and after granting opportunity of personal hearing.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX,

WRIT PETITION NO : 6856 of 2005

Between:

M/s. Sri Varasidhi Vinayaka Traders, 144J-17, Nandyal - 518 501, Kurnool District, Rep. by its Proprietor Mr. V. Praveen Kumar.

..... PETITIONER

AND

1 The Commercial Tax Officer-I, Nandyal, Kurnool District.
2 The Regional Vigilance & Enforcement Officer, Kurnool.
3 The Deputy Commercial Tax Officer, Vigilance & Enforcement Wing,

Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate Writ or order or direction calling for the record pertaining to the assessment order dated 24-2-2005 for the assessment year 2001-02 (APGST) passed by the 1st Respondent on alleged incriminating material said to be sent by the 2nd Respondent and quash the same as illegal, arbitrary and without authority of law and in violation to the principles of natural justice and declare that the Petitioner is entitled to the copies of the incriminating material on which the 1st Respondent is relying for the revision of assessment under Section 14(4)(c) of the APGST Act along with the books of accounts seized by Respondents on 17-1-2003 and consequently direct the 1st Respondent to complete the assessment after giving sufficient opportunity to the Petitioner to submit its objections and after granting opportunity of personal hearing.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

AND

WRIT PETITION NO : 6979 of 2005

Between:

M/s. Sri Varasidhi Vinayaka Traders 144J-17, Nandyal - 518 501, Kurnool District, Rep by its Proprietor, Mr. V. Praveen Kumar

..... PETITIONER

AND

1 The Commercial Tax Officer-I, Nandyal, Kurnool District.
2 The Regional Vigilance & Enforcement Officer, Kurnool.
3 The Deputy Commercial Tax Officer, Vigilance & Enforcement Wing, Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction calling for the record pertaining to the assessment order dated 24-2-2005 for the assessment year 2001-2002 (CST) passed by the 1st Respondent on alleged incriminating material said to be sent by the 2nd Respondent and quash the same as illegal, arbitrary and without authority of law and in violation to the principles of natural justice and declare that the petitioner is entitled to the copies of the incriminating material on which the 1st Respondent in relying for the revision of assessment under Section 14(4)(c) of the APGST Act along with the books of accounts seized by Respondents on 17-1-2003 and consequently direct the 1st Respondent to complete the assessment after giving sufficient opportunity to the Petitioner to submit its objections and after granting opportunity of personal hearing.

Counsel for the Petitioner: MR.P.SRINIVASA REDDY

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

THE HON'BLE SRI JUSTICE G.BIKSHAPATHY

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AND

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THE HON'BLE SRI JUSTICE P.S.NARAYANA

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W.P.NOS. 6762, 6763, 6856 AND 6979 OF 2005

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COMMON ORDER: (per the Hon'ble Sri Justice G.Bikshapathy)

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All the four writ petitions can be disposed of by a common order. The assessment orders have been passed by the authorities concerned and challenging those assessment orders, present writ petitions have been filed. The principal grievance of the petitioner in these writ petitions is that after issuing show cause notices the petitioner sought for supply of the relevant documents to enable them to file the appropriate explanation. But the said request was rejected on the ground that petitioner can peruse the documents and thereafter the final orders of assessment were passed.

2. The learned counsel for the petitioner submits that the copies of the documents can be supplied at the cost of the petitioner and no prejudice will be caused to the Department in this regard. But, however, they cannot violate the principles of natural justice and deny the supply of the relevant documents.

3. We have heard the learned counsel for the petitioner and the learned Government Pleader for Commercial Tax.

4. In view of the fact that proper opportunity was not given to the petitioner, we are

inclined to set aside the impugned orders and direct the authorities to pass orders afresh after taking into consideration the explanation that may be offered by the petitioner in this regard.

5. Accordingly, writ petitions are disposed of setting aside the orders of assessment. The petitioner shall approach the assessing authority, first respondent herein, within a period of one week from today and deposit the charges towards the supply of xerox copies required by him. On deposit of such charges, the first respondent shall furnish the xerox copies of the documents and after receipt of the xerox copies, the petitioner shall file the detailed explanation on the basis of which the final orders will be passed. The said exercise shall be completed within a period of four weeks from today. No costs.

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G.BIKSHAPATHY, J.

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P.S.NARAYANA, J.

Dated 31-03-2005.

SKMR

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Note: Issue C.C. in three days.

B/O

Skmr

Copy to:

1 The Commercial Tax Officer-I, Nandyal, Kurnool District.
2 The Regional Vigilance & Enforcement Officer, Kurnool.
3 The Deputy Commercial Tax Officer, Vigilance & Enforcement Wing,

Kurnool.

4 2 CCs to G.P. for Commercial Tax, High Court Buildings, Hyderabad

(OUT).

2 CD copies

Form-NIC-OGS/WP{*RLD****}***